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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93778; File No. SR-BOX-2021-19]

This document is scheduled to be published in the Federal Register on 12/20/2021 and available online at [federalregister.gov/d/2021-27427](https://www.federalregister.gov/d/2021-27427), and on [govinfo.gov](https://www.govinfo.gov)

Self-Regulatory Organizations; BOX Exchange LLC; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, Related to BOX Exchange LLC and BOX Holdings Group LLC Ownership Transfer Transactions

December 14, 2021.

I. Introduction

On August 27, 2021, BOX Exchange LLC (“BOX Exchange” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change related to the Exchange and BOX Holdings Group LLC (“BOX Holdings”) ownership transfer transactions. The proposed rule change was published for comment in the Federal Register on September 15, 2021.³ The Commission received one comment on the proposed rule change.⁴ On September 28, 2021, pursuant to Section 19(b)(2) of the Act,⁵ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁶ On December 13, 2021, the Exchange filed Amendment No. 1 to the proposed rule change,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 92926 (September 9, 2021), 86 FR 51410 (“Notice”).

⁴ See letter from Seymour Johnson, dated September 10, 2021, available at <https://www.sec.gov/comments/sr-box-2021-19/srbox202119-9221992-250319.htm>. The commenter is critical of the voting and economic interests of Citadel Securities Principal Investments LLC (“Citadel”) in BOX Holdings Group and believes that such interests should be reduced.

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 93156, 86 FR 54780 (October 4, 2021). The Commission designated December 14, 2021, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

which amended and superseded the Notice in its entirety.⁷ The Commission is approving the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change⁸

The Exchange is a limited liability company, organized under the laws of the State of Delaware on August 26, 2010. The Exchange's charter is a Second Amended and Restated Limited Liability Company Agreement, dated as of May 29, 2020, as amended November 30, 2020 ("BOX Exchange LLC Agreement"). Citigroup Financial Products Inc. ("Citi"), CSFB Next Fund Inc. ("CSFB"), and MX US 2, Inc., ("MXUS2") each became a Member⁹ of the Exchange on May 10, 2012. Wolverine Holdings, L.P. ("Wolverine") is not currently a Member of the Exchange.

BOX Holdings is a limited liability company, organized under the laws of the State of Delaware on August 26, 2010. BOX Holdings is the sole owner of BOX Options Market LLC, a facility of the Exchange ("BOX Options"). The BOX Holdings charter is a Second Amended and Restated Limited Liability Company Agreement, dated as of

⁷ In Amendment No. 1, the Exchange revised the proposal to: (1) provide updated and additional ownership and voting percentage interests information; (2) correct a reference from BOX Holdings to BOX Options Market LLC; (3) specify that all foreign upstream owners have signed onto the BOX Exchange LLC Agreement and the BOX Holdings LLC Agreement. Because Amendment No. 1 is a technical amendment that does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment. Amendment No. 1 to the proposed rule change is available at <https://www.sec.gov/rules/sro/box.htm>.

⁸ For a more complete description of all the changes as proposed, see Amendment No. 1, supra note 7.

⁹ A "Member" of the Exchange means the current owners of Economic Units and Voting Units of the Exchange and includes any person subsequently admitted to the Exchange as an additional or substitute Member of the Exchange. See Article 1.1 of the BOX Exchange LLC Agreement. "Economic Units" refer to equal units of limited liability company interest in the Exchange collectively comprising all interests in the profits and losses of the Exchange and all rights to receive distributions from the Exchange as set forth in the BOX Exchange LLC Agreement. See Article 2.5(a) of the BOX Exchange LLC Agreement. "Voting Units" refer to equal units of limited liability company interest in the Exchange collectively comprising all voting interests of Members with respect to Exchange matters. See Article 2.5(b) of the BOX Exchange LLC Agreement.

September 13, 2018 (“BOX Holdings LLC Agreement”). Citi and CSFB each became a Member¹⁰ of BOX Holdings on May 10, 2012.

The Exchange proposes several transactions related to the ownership of the Exchange and BOX Holdings. First, the Exchange would repurchase the ownership interests in the Exchange held by Citi and CSFB.¹¹ Second, BOX Holdings would repurchase the ownership interests in BOX Holdings held by Citi and CSFB.¹² Finally, Wolverine would purchase an ownership interest in the Exchange from MXUS2.¹³ The charts below summarize the ownership and voting percentage changes in the Exchange and BOX Holdings that would result from the proposed transactions:

BOX Exchange

Exchange Unit Holder	Current Economic Percentage Interest¹⁴	Proposed Economic Percentage Interest
MXUS2	40.00%	40.00%
IB	20.00%	20.00%
Citadel	7.68%	12.28%
Citi	7.68%	--
UBS	7.45%	11.92%
CSFB	7.30%	--
LabMorgan Corp./JPMC	7.30%	11.67%
Aragon	2.58%	4.13%
Wolverine	---	<0.01%

¹⁰ A “Member” of BOX Holdings means the current owners of BOX Holdings Units and includes any Person subsequently admitted to BOX Holdings as an additional or substitute Member of BOX Holdings. See BOX Holdings LLC Agreement §1.1. BOX Holdings “Units” means Class A Membership Units, Class B Membership Units, and Class C Membership Units of BOX Holdings. See Article 1.1 of the BOX Holdings LLC Agreement. The current Members of BOX Holdings are: MXUS2, IB Exchange Corp. (“IB”), Citadel, Citi, UBS Americas Inc. (“UBS”), CSFB, JPMC Strategic Investments I Corporation (“JPMC”), Wolverine, and Aragon Solutions Ltd (“Aragon”).

¹¹ See Notice, supra note 3, 86 FR at 51411 and Amendment No. 1, supra note 7.

¹² See id.

¹³ See Notice, supra note 3, 86 FR at 51411-12 and Amendment No. 1, supra note 7.

¹⁴ “Economic Percentage Interest” with respect to a Member of the Exchange means the ratio of the number of Economic Units held by the Member, directly or indirectly, of record or beneficially, to the total of all of the issued and outstanding Economic Units held by Members, expressed as a percentage. See Article 1.1 of the BOX Exchange LLC Agreement.

Exchange Unit Holder	Current Voting Percentage Interest¹⁵	Proposed Voting Percentage Interest
MXUS2	20.00%	20.00%
IB	20.00%	20.00%
Citadel	18.73%	20.00%
Citi	10.00%	--
UBS	4.99%	4.99%
CSFB	10.00%	--
LabMorgan Corp./JPMC	9.99%	9.99%
Aragon	6.30%	20.00%
Wolverine	---	5.03%

BOX Holdings

BOX Holdings Unit Holder	Current Percentage Interest¹⁶	Proposed Percentage Interest
MXUS2	42.62%	47.89%
IB	22.69%	25.50%
Citadel	13.80%	15.50%
Citi	7.85%	--
UBS	3.23%	3.63%
CSFB	3.16%	--
LabMorgan Corp./JPMC	3.16%	3.55%
Aragon	1.12%	1.26%
Wolverine	2.38%	2.67%

BOX Holdings Unit Holder	Current voting power	Proposed voting power
MXUS2	44.10% (Member votes) 45.50% (total Board voting power)	51.43%
IB	20.00%	20.00%
Citadel	14.28% (Member votes) 14.73% (total Board voting power)	16.65%
Citi	8.13% (Member votes) 8.38 (total Board voting power)	--

¹⁵ “Voting Percentage Interest” with respect to a Member of the Exchange means the ratio of the number of Voting Units held by the Member, directly or indirectly, of record or beneficially, to the total of all of the issued and outstanding Voting Units held by Members, expressed as a percentage. Voting Units held by a Member of the Exchange that are ineligible to vote shall not be counted in the numerator or the denominator when determining such ratio. See id.

¹⁶ “Percentage Interest” with respect to a Member of BOX Holdings means the ratio of the number of Units held by the Member to the total of all of the issued Units, expressed as a percentage and determined with respect to each class of Units, whenever applicable. See id.

BOX Holdings Unit Holder	Current voting power	Proposed voting power
UBS	3.34% (Member votes) 3.45% (total Board voting power)	3.90%
CSFB	3.27% (Member votes) 3.37% (total Board voting power)	--
LabMorgan Corp./JPMC	3.27% (Member votes) 3.37% (total Board voting power)	3.82%
Aragon	1.16% (Member votes) 1.19% (total Board voting power)	1.35%
Wolverine	2.46% (Member votes) 0.00% (total Board voting power because Wolverine does not have a Board seat)	2.87%

In addition to the transactions, the Exchange proposes to update the name of one of its Members in the BOX Exchange LLC Agreement. LabMorgan Corp., a Member of the Exchange, has changed its legal name to “JPMC Strategic Investments I Corporation.”¹⁷

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁸ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,¹⁹ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also finds that these proposed rule changes, as modified by Amendment No. 1, are consistent with Section

¹⁷ See Notice, supra note 3, 86 FR at 51413, and Amendment No. 1, supra note 7.

¹⁸ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁹ 15 U.S.C. 78f(b)(5).

6(b)(1) of the Act, which requires, among other things, that a national securities exchange be so organized and have the capacity to carry out the purposes of the Act, and to comply and enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange.

Both the BOX Exchange LLC Agreement and the BOX Holdings LLC Agreement contain provisions relating to limitations on ownership and voting power. In particular, the BOX Exchange LLC Agreement provides that no Person,²⁰ either alone or together with any Related Persons²¹ may own, directly or indirectly, of record or beneficially, an aggregate Economic Percentage Interest greater than 40%.²² Exchange Facility Participants,²³ alone or together with any Related Persons may not own, directly or indirectly, of record or beneficially, an Economic Percentage Interest greater than 20%.²⁴ In addition, no Person, either alone or together with any Related Persons, may own, directly or indirectly, of record or beneficially, an aggregate Voting Percentage Interest greater than 20%.²⁵ Moreover, any Member²⁶ of the Exchange involved in a transaction that would result in a Member having a Voting Percentage Interest or Economic Percentage Interest, alone or together with any Related Person, of record or beneficially, of 5% or more will be required to provide written notice to BOX Exchange 14 days before the

²⁰ “Person” means any individual, partnership, corporation, association, trust, limited liability company, joint venture, unincorporated organization and any government, governmental department or agency or political subdivision thereof. See Article 1.1 of the BOX Exchange LLC Agreement.

²¹ The term “Related Person” is defined in Article 1.1 of the BOX Exchange LLC Agreement.

²² See Article 7.3(f) of the BOX Exchange LLC Agreement.

²³ “Exchange Facility Participant” means a firm or organization that is registered with the Exchange pursuant to the Exchange Rules for purposes of participant in trading on any Exchange Facility. See Article 1.1 of the BOX Exchange LLC Agreement. “Exchange Facility” means any facility of the Exchange as the term “facility” is defined in Section 3 of the Act. See id.

²⁴ Id.

²⁵ See Article 7.3(g)(i) of the BOX Exchange LLC Agreement.

²⁶ See supra note 9.

transaction that would exceed the 5% limit.²⁷ BOX Exchange will then be required to provide written notice to the Commission 10 days before the transaction.²⁸

In addition, the BOX Holdings LLC Agreement provides that if a Member²⁹ of BOX Holdings or any of its Related Persons³⁰ is approved by the Exchange as a BOX Options Participant,³¹ and if such Member, alone or together with the Related Persons, own more than 20% of BOX Holdings Units,³² then such Member and any director of BOX Holdings designated by such Member will not have any voting rights with respect to any Units owned in excess of 20%.³³ The BOX Holdings LLC Agreement further provides that any Member of BOX Holdings involved in a transaction in which the Member's Percentage Interest³⁴ in BOX Holdings, either alone or together with any Related Person, will meet or cross the threshold level of 5% or the successive 5% percentage levels of 10% and 15% will be required to provide written notice to BOX Holdings 14 days before the transaction.³⁵ BOX Holdings will then be required to provide written notice to BOX Exchange and the Commission 10 days before the transaction.³⁶ In addition to these notices, any transaction of Units that results in the acquisition and holding by any Person³⁷, alone or with its Related Persons, of a Percentage Interest that

²⁷ See Article 7.3(e) of the BOX Exchange LLC Agreement.

²⁸ Id.

²⁹ See supra note 10.

³⁰ The term "Related Person" is defined in Article 1.1 of the BOX Holdings LLC Agreement.

³¹ "Options Participant" means a firm, or organization that is registered with the Exchange pursuant to the Rule 2000 Series for purposes of participating in trading on a facility of the Exchange. See BOX Rule 100(a)(41).

³² See supra note 10.

³³ See Article 7.4(h) of the BOX Holdings LLC Agreement.

³⁴ See supra note 16.

³⁵ See Article 7.4(e) of the BOX Holdings LLC Agreement.

³⁶ Id.

³⁷ "Person" means any individual, partnership, corporation, association, trust, limited liability company, joint venture, unincorporated organization and any government, governmental department or agency or political subdivision thereof. See Article 1.1 of

meets or crosses the threshold level of 20% or any successive 5% percentage interest will be subject to the rule filing process of Section 19 of the Act.³⁸ Further, any transaction that is in contravention of the notification and filing provisions shall be void.³⁹

The ownership and voting limitations are designed to help ensure that BOX Exchange is able to effectively carry out its regulatory obligations under the Act. In addition, the limitations are designed to address the conflicts of interests that might result from a member of a national securities exchange owning interests in the exchange. The Commission believes that the Exchange has followed the required notice procedures set forth in the BOX Exchange LLC Agreement and BOX Holdings LLC Agreement and that the proposed transactions are in compliance with the ownership and voting limitations in the governance documents.⁴⁰ The Commission also notes that the BOX Exchange LLC Agreement⁴¹ and BOX Holdings LLC Agreement⁴² contain certain provisions designed to help maintain the independence of the

the BOX Holdings LLC Agreement.

³⁸ See Article 7.4(f) of the BOX Holdings LLC Agreement.

³⁹ See Article 7.4(d) of the BOX Holdings LLC Agreement.

⁴⁰ Although a commenter objects to Citadel's ownership and voting percentages in BOX Holdings increasing because of the contemplated transaction, the increase is consistent with the ownership and voting limitations set forth in BOX Holdings governing documents as previously approved by the Commission. See Securities Exchange Act Release No. 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012).

⁴¹ See, e.g., Article 4.6(b) of the BOX Exchange LLC Agreement (requiring the Exchange and its Members to cooperate with BOX Exchange and the Commission and to comply with federal securities laws); and Article 18.6(b) of the BOX Holdings LLC Agreement (deeming the Exchange, its Members and officers, directors, employees and agents of each to submit to the jurisdiction of the US federal courts and the Commission).

⁴² See, e.g., Article 4.12(b) of the BOX Holdings LLC Agreement (requiring BOX Holdings and its Members to cooperate with BOX Exchange and the Commission and to comply with federal securities laws); Article 11.1 of the BOX Holdings LLC Agreement (requiring the books and records of BOX Holdings and its Members to be subject to inspection and copying by the Exchange and the Commission at all times); and Article 18.6(b) of the BOX Holdings LLC Agreement (deeming BOX Holdings, its Members and officers, directors, employees and agents of each to submit to the jurisdiction of the US federal courts, the Commission, and BOX Exchange).

regulatory functions of BOX Exchange. The Commission believes that the potential for conflicts of interest or unfair competition is mitigated by these provisions.

With respect to the ownership of BOX Exchange, the Commission notes that no BOX Exchange Member will own in excess of 40% of the Exchange's Economic Units (20% if an Exchange Facility Participant) and 20% of the Exchange's Voting Units. The board composition of the Exchange will not change. And although BOX Holdings is not independently responsible for regulation of BOX Options, its activities with respect to the operation of BOX Options must be consistent with, and not interfere with, the self-regulatory obligations of BOX Exchange. Pursuant to the transaction, with respect to the ownership of BOX Holdings, the voting power of IB, a BOX Options Participant, would remain at 20.00%. Further, while MXUS2's voting power in BOX Holdings would increase, MXUS2's power to appoint directors would remain unchanged.⁴³ The Commission accordingly believes that the proposed transfers are in compliance with requirements in the BOX Exchange LLC Agreement and the BOX Holdings LLC Agreement and provisions designed to help maintain BOX Exchange's regulatory function.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁴⁴ that the proposed rule change (SR-BOX-2021-19), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁵

⁴³ MXUS2 (through MXUS1) is a wholly-owned subsidiary of the Bourse de Montreal ("Bourse") and the Bourse is a wholly-owned subsidiary of TMX Group Limited. Each of MXUS1, Bourse, and TMX Group Limited is a party to the BOX Exchange LLC Agreement and BOX Holdings LLC Agreement and has all the rights and responsibilities of the Members of BOX Exchange and BOX Holdings. See Amendment No 1, supra note 7.

⁴⁴ Id.

⁴⁵ 17 CFR 200.30-3(a)(12).

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021-27427 Filed: 12/17/2021 8:45 am; Publication Date: 12/20/2021]